

IC 5-13-9

Chapter 9. Deposit and Investment Powers

IC 5-13-9-1

Investment powers; funds that may be invested

Sec. 1. (a) Except as provided in subsection (b), in addition to any other statutory power to make investments, each county treasurer and each fiscal officer of any political subdivision other than a county, under the guidelines established, respectively, by the board of county commissioners of each county and the fiscal body of any other subdivision, and any other officer of a local government entity authorized by statute or court order to make investments, may invest any funds held by each in accordance with this chapter.

(b) The treasurer of state may invest funds under section 2.5 of this chapter.

(c) The funds that may be invested under this chapter include money raised by bonds issued for a future specific purpose, sinking funds, depreciation reserve funds, gift, bequest or endowment, and any other funds available for investment.

As added by P.L.19-1987, SEC.11. Amended by P.L.18-1996, SEC.11; P.L.134-1999, SEC.1; P.L.220-2003, SEC.1.

IC 5-13-9-2

Investment of funds held in securities; cost in excess of par; protecting interest in funds invested; legal custodians; safekeeping receipts

Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:

- (A) The United States Treasury.
- (B) A federal agency.
- (C) A federal instrumentality.
- (D) A federal government sponsored enterprise.

(2) Securities fully guaranteed and issued by any of the following:

- (A) A federal agency.
- (B) A federal instrumentality.
- (C) A federal government sponsored enterprise.

(b) If an investment under subsection (a)(1) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases

where the new securities offered in exchange meet the requirements for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

- (1) a duly designated depository as prescribed in this article; or
- (2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000) may also invest in:

- (1) municipal securities; and
- (2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) may also invest money in a host community agreement future fund established by ordinance of the town in:

- (1) municipal securities; and
- (2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

As added by P.L.19-1987, SEC.11. Amended by P.L.67-1989, SEC.1; P.L.72-1995, SEC.4; P.L.18-1996, SEC.12; P.L.54-1999, SEC.1; P.L.212-1999, SEC.1; P.L.170-2002, SEC.14; P.L.220-2003, SEC.2.

IC 5-13-9-2.4 Repealed

(Repealed by P.L.220-2003, SEC.6.)

IC 5-13-9-2.5

Permitted investments; limitations

Sec. 2.5. (a) An officer designated in section 1 of this chapter may invest or reinvest funds that are held by the officer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(b) The investments described in subsection (a) may not exceed fifty percent (50%) of the funds held by the officer and available for investment. This limitation does not apply to investments made by a county treasurer between:

- (1) the date that is ten (10) days before each property tax installment due date described in IC 6-1.1-22-9; and
- (2) the property tax settlement distribution date described in IC 6-1.1-27-1(b).

(c) The investments described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5.

(d) The portfolio of an investment company or investment trust described in subsection (a) must be limited to the following:

- (1) Direct obligations of the United States.
- (2) Obligations issued by any of the following:
 - (A) A federal agency.
 - (B) A federal instrumentality.
 - (C) A federal government sponsored enterprise.
- (3) Repurchase agreements fully collateralized by obligations described in subdivision (1) or (2).

(e) The form of securities of or interests in an investment company or investment trust described in subsection (a) must be rated as one (1) of the following:

- (1) AAAM, or its equivalent, by Standard and Poor's Corporation or its successor.
- (2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its successor.

(f) The form of securities in an investment company or investment trust described in subsection (a) is considered to have a stated final maturity of one (1) day.

(g) The state board of accounts may rely on transaction confirmations evidencing ownership of the form of securities of or interests in an investment company or investment trust described in subsection (a).

As added by P.L.134-1999, SEC.3.

IC 5-13-9-3

Repurchase agreements; funds held by officer and available for investment; obligations held as collateral

Sec. 3. (a) As used in this section, "repurchase agreement" means an agreement:

- (1) involving the purchase and guaranteed resale of securities between two (2) parties; and
- (2) that may be entered into for a fixed term or arranged on an open or a continuing basis as a continuing contract that:
 - (A) operates like a series of overnight repurchase agreements;
 - (B) is renewed each day with the repurchase rate and the amount of funds invested determined daily; and
 - (C) for purposes of this article, is considered to have a stated final maturity of one (1) day.

(b) Each officer designated in section 1 of this chapter may enter into, with any funds that are held by the officer and available for investment, repurchase agreements:

- (1) with depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5; and
- (2) involving the political subdivision's purchase and guaranteed resale of any interest-bearing obligations:
 - (A) issued; or
 - (B) fully insured or guaranteed;by the United States, a United States government agency, an instrumentality of the United States, or a federal government sponsored enterprise.

The depository shall determine daily that the amount of money in this type of agreement must be fully collateralized by interest-bearing obligations as determined by their current market value. The collateral for this type of agreement is not subject to the provisions of section 2(c) of this chapter.

(c) If the market value of the obligations being held as collateral falls below the level required under subsection (b) or a higher level established by agreement, the depository shall deliver additional securities to the political subdivision to make the agreement collateralized to the applicable level. The collateral involved in a repurchase agreement entered into under this section is not subject to the maturity limitation provided in section 5.6 of this chapter.

(d) A political subdivision may invest in repurchase agreements without entering into a contract under IC 5-13-11 for an investment cash management system.

As added by P.L.19-1987, SEC.11. Amended by P.L.49-1988, SEC.1; P.L.41-1996, SEC.1; P.L.18-1996, SEC.13; P.L.46-1997, SEC.10; P.L.134-2000, SEC.1.

IC 5-13-9-3.3

Investment of funds in obligations issued, assumed, or guaranteed by International Bank for Reconstruction and Redevelopment or African Development Bank

Sec. 3.3. Each officer designated in section 1 of this chapter may

invest or reinvest any funds that are held by the officer and available for investment in obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Redevelopment or the African Development Bank.

As added by P.L.18-1996, SEC.14.

IC 5-13-9-3.5

Investment and reinvestment of funds; participation in loans; lending securities

Sec. 3.5. (a) The fiscal officer of a political subdivision or county treasurer that is located in a county containing a consolidated city may invest or reinvest any funds that are held by the fiscal officer or the county treasurer and that are available for investment in participations in loans. However, funds may be invested or reinvested in a participation in loans under this subsection only under the following conditions:

(1) The principal of the participation in loans must be guaranteed by an agency or instrumentality of the United States government.

(2) The participation in loans must be represented by a certificate issued by a bank that is:

(A) incorporated under the laws of Indiana, another state, or the United States; and

(B) insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(b) Funds may be invested or reinvested in a participation in loans under subsection (a) even though the certificate representing the participation in loans is not insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(c) A fiscal officer or county treasurer described in subsection (a) may lend any securities acquired under this section or section 2 of this chapter. However, securities may be lent under this subsection only if the agreement under which the securities are lent is collateralized by:

(1) cash; or

(2) interest bearing obligations that are issued by, fully insured by, or guaranteed by the United States, an agency of the United States government, a federal instrumentality, or a federal government sponsored enterprise in excess of the total market value of the loaned securities.

As added by P.L.44-1990, SEC.6. Amended by P.L.8-1991, SEC.3; P.L.29-1992, SEC.4; P.L.57-1993, SEC.5; P.L.18-1996, SEC.15; P.L.46-1997, SEC.11.

IC 5-13-9-4

Deposit, investment, or reinvestment of funds in transaction accounts; certificates of deposit; deposit accounts

Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by

a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository.

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

As added by P.L.19-1987, SEC.11. Amended by P.L.50-1988, SEC.1; P.L.44-1990, SEC.7; P.L.57-1993, SEC.6; P.L.18-1996, SEC.16; P.L.46-1997, SEC.12; P.L.173-2003, SEC.2.

IC 5-13-9-5

Authorization to invest in certificates of deposit; quotes from depositories

Sec. 5. (a) The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its local board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing

officer as a public record of the political subdivision under IC 5-14-3.

(c) Investments in any certificates of deposit to which this section applies shall be placed in the depository quoting the highest rate of interest under subsection (b), as determined after deducting any fee charged by the depository. If two (2) or more depositories submit the same highest quote, the investment shall be placed as follows:

(1) If only one (1) of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed in that depository.

(2) If more than one (1) of the highest quoters are depositories designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in any or all of these depositories in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(3) If none of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote.

As added by P.L.19-1987, SEC.11. Amended by P.L.47-1991, SEC.1; P.L.18-1996, SEC.17; P.L.46-1997, SEC.13.

IC 5-13-9-5.6

Final maturity

Sec. 5.6. Except for investments allowed under section 2(f) or 2(g) of this chapter, investments made under this chapter must have a stated final maturity of not more than:

(1) five (5) years for a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000);

(2) five (5) years for investments made from a host community agreement future fund established by ordinance of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); or

(3) two (2) years for a fund or political subdivision not described in subdivision (1) or (2);

after the date of purchase or entry into a repurchase agreement.

As added by P.L.18-1996, SEC.18. Amended by P.L.54-1999, SEC.2; P.L.212-1999, SEC.2; P.L.170-2002, SEC.15.

IC 5-13-9-6

Interest received from investment; deposit; receipt; reinvestment; disposition

Sec. 6. (a) All interest derived from an investment by a political subdivision or by any other local public officer under the authority granted by section 3 of this chapter shall be deposited, except as otherwise provided by law, in the general fund of the investment

authority or in any other fund its governing body designates specifically or by rule, subject to the modifications and limitations in this section.

(b) Interest from the following investments shall be receipted as follows:

(1) Interest from investments of funds of a political subdivision that are traceable to United States government funds must be receipted to the fund of which they are a part, if required by federal law or regulation.

(2) Interest from investments of funds controlled by court orders must be receipted to that fund unless otherwise designated by the court order.

(c) Each county treasurer, if authorized by the board of county commissioners, may invest tax collections under this chapter pending distribution of the collections to political subdivisions. These investments may not:

(1) exceed the amount available after giving consideration to taxes which may need to be advanced to any political subdivision; or

(2) be made in deposit accounts or repurchase agreements, the maturity dates of which are later than the time when the tax collections are required by law to be distributed to political subdivisions.

(d) The interest received on the investments made under subsection (c) shall be receipted to the county general fund or any other fund from which expenses incurred in the maintenance of county highways may be paid. The county fiscal body (as defined in IC 36-1-2-6) shall determine the allocation of this interest among the general fund and the various highway funds into which the interest may be deposited.

(e) Any political subdivision may apply the interest derived from the investment of the proceeds from bonded indebtedness or local tax levies to the appropriate redemption bond interest or sinking fund for the bonded indebtedness.

(f) If meter deposits of a municipally owned utility are invested, the interest earned on the investment may be applied to and used in the operation or depreciation fund of the municipally owned utility as determined by its governing body.

(g) Interest from the investment of the public funds of a political subdivision may not be paid personally or for the benefit of any public officer.

As added by P.L.19-1987, SEC.11. Amended by P.L.68-1989, SEC.1; P.L.18-1996, SEC.19.

IC 5-13-9-7

Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-9-8

Service charge to depository

Sec. 8. Any investing officer of a political subdivision that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by sections 4 and 5 of this chapter. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository.

As added by P.L.19-1987, SEC.11. Amended by P.L.18-1996, SEC.20.

IC 5-13-9-8.5

Designation as public funds

Sec. 8.5. Funds deposited in deposit accounts in accordance with this chapter and interest earned or accrued on the funds are public funds and are covered by the insurance fund.

As added by P.L.18-1996, SEC.21.

IC 5-13-9-9

Prohibited acts

Sec. 9. An officer designated in section 1 of this chapter may not do the following:

- (1) Purchase securities on margin.
- (2) Open a securities margin account for the investment of public funds.

As added by P.L.72-1995, SEC.5.

IC 5-13-9-10

County joint investment fund; participating political subdivisions; written master agreement; administration of board; interest payments

Sec. 10. (a) The investing officers of two (2) or more political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.

(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and

available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

(d) A joint investment fund must be invested and reinvested as a separate and individual fund.

(e) A written master agreement under subsection (a) must provide the following:

(1) A political subdivision may participate in a joint investment fund only with the written authorization of its local board of finance.

(2) A political subdivision may participate in a joint investment fund only if its legislative body approves the written master agreement.

(3) The board of a joint investment fund shall establish written policies for the investment and reinvestment of joint investment funds in the manner provided by IC 30-4-3-3.

(4) A fund shall be invested and reinvested as prescribed in subdivision (3).

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

(C) provide any other services appropriate and customary for a custodian;

subject to the direction of the board of a joint investment fund.

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment Advisors Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars (\$100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.

As added by P.L.224-2003, SEC.276.